

## CREDIT UNION DIVISION[189]

### Notice of Intended Action

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code chapter 17A, the Credit Union Division hereby gives Notice of Intended Action to amend Chapters 1, 3, 6, 7, 9 to 17, 19, 23, and 25, Iowa Administrative Code.

The purpose of the proposed amendments is to update references to Iowa Code Supplement chapter 533.

Interested persons may make written comments on the proposed amendments on or before November 25, 2008. Such written material should be directed to the Superintendent of Credit Unions, Credit Union Division, Department of Commerce, 200 East Grand Avenue, Suite 370, Des Moines, Iowa 50309. Persons who want to convey their views orally should contact the Superintendent of Credit Unions, Department of Commerce, at (515)281-6516 or at 200 East Grand Avenue, Suite 370, Des Moines, Iowa.

Also, a public hearing will be held on November 25, 2008, at 10 a.m. in the Credit Union Division Conference Room at 200 East Grand Avenue in Des Moines. Persons may present their views at the public hearing either orally or in writing. Persons who wish to make oral presentations at the public hearing should contact the Superintendent of Credit Unions at least one day prior to the date of the public hearing.

These amendments are intended to implement Iowa Code Supplement chapter 533.

The following amendments are proposed.

ITEM 1. Amend rule **189—1.3(17A,533)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code Supplement section ~~533.52~~ 533.107.

ITEM 2. Amend rule **189—1.4(17A,533)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code Supplement section ~~533.51~~ 533.102.

ITEM 3. Amend rule **189—3.1(533)**, definition of "Credit union," as follows:

"Credit union" means credit union as defined in the Iowa Credit Union Act, Iowa Code Supplement section ~~533.1~~ 533.102.

ITEM 4. Amend subrule 3.2(2) as follows:

**3.2(2)** An Iowa-chartered credit union shall remain responsible for the entire annual fee pursuant to Iowa Code Supplement section ~~533.62~~ 533.112 during the year in which the credit union converts.

ITEM 5. Amend subrule 3.4(8) as follows:

**3.4(8)** In addition, if the purpose of conversion is to become a mutual savings bank or savings association, or a stock institution, the notice must describe a method that will be used to provide for a pro-rata distribution of all unencumbered credit union retained and undivided earnings in excess of regulatory required reserves, as calculated pursuant to Iowa Code Supplement section ~~533.17~~ 533.303, or in excess of a well-capitalized net worth level, calculated pursuant to the Federal Credit Union Act, 12 U.S.C. Section 1790d, whichever amount is greater. The pro-rata distribution shall occur on all shares of record as of the date of first notice to members under this rule, and must be based upon the member's share balance less any amount pledged to share-secured loans.

ITEM 6. Amend **189—Chapter 3**, implementation sentence, as follows:

These rules are intended to implement Iowa Code Supplement section ~~533.34~~ 533.403.

ITEM 7. Amend **189—Chapter 6**, implementation sentence, as follows:  
These rules are intended to implement Iowa Code Supplement section ~~533.4(19)~~ 533.301(19).

ITEM 8. Amend rule 189—7.1(533), introductory paragraph, as follows:

**189—7.1(533) Authority.** Iowa Code Supplement subsection ~~533.4(1)~~ 533.301(1) grants ~~credit unions a credit union~~ the power to receive from its members, nonmembers where the credit union is serving predominantly low-income members, other credit unions, and federal, state, county, and city governments, payments on shares or as deposits.

ITEM 9. Amend paragraph **7.5(2)“c”** as follows:

c. That the nonmember shares and deposits held by the credit union must be withdrawn and the account closed either upon the stated date of maturity of the account or the date when the account ceases to be federally insured as required by Iowa Code Supplement section ~~533.64~~ 533.307, whichever occurs first.

ITEM 10. Amend **189—Chapter 7**, implementation sentence, as follows:

These rules are intended to implement Iowa Code Supplement section ~~533.4(1)~~ 533.301(1).

ITEM 11. Amend rule **189—9.1(533)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~sections 533.4(21) and 533.16(4)“a.”~~ Supplement section 533.315(4)“a.”

ITEM 12. Amend rule **189—9.2(533)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~sections 533.4(21) and 533.16(4)“a.”~~ Supplement section 533.315(4)“a.”

ITEM 13. Amend rule 189—10.1(533) as follows:

**189—10.1(533) Corporate central credit union powers.** A corporate central credit union established in accordance with Iowa Code chapter 533 shall have all the powers, restrictions, and obligations imposed upon or granted to a credit union established in accordance with that chapter, the additional powers permitted under Iowa Code Supplement section ~~533.38~~ 533.213, and such other powers granted to federally chartered corporate central credit unions under Part 704 of the National Credit Union Administration Rules and Regulations.

This rule is intended to implement Iowa Code Supplement section ~~533.38~~ 533.213.

ITEM 14. Amend **189—Chapter 11**, implementation sentence, as follows:

These rules are intended to implement Iowa Code Supplement section ~~533.6~~ 533.501.

ITEM 15. Amend **189—Chapter 12**, implementation sentence, as follows:

These rules are intended to implement Iowa Code Supplement section ~~533.2~~ 533.201.

ITEM 16. Amend rule 189—13.1(533), introductory paragraph, as follows:

**189—13.1(533) Powers of superintendent or special deputy superintendent.** When the superintendent takes control of a credit union pursuant to Iowa Code ~~section 533.6~~ Supplement sections 533.501 and 533.502, the superintendent or the superintendent’s special deputy shall have the power to operate and direct the affairs of the credit union in its regular course of business which shall include, but not be limited to:

ITEM 17. Amend rule 189—13.2(533) as follows:

**189—13.2(533) Surrender of control.** The superintendent shall determine when the superintendent’s control shall cease unless such right to control expires as provided by Iowa Code ~~section 533.6~~ Supplement sections 533.501 and 533.502. Upon determining that control shall cease, the superintendent shall either turn the control of the credit union back to the board of directors of the credit union or shall seek a receivership.

ITEM 18. Amend **189—Chapter 13**, implementation sentence, as follows:  
These rules are intended to implement Iowa Code ~~section 533.6(4)~~ Supplement sections 533.501 and 533.502.

ITEM 19. Amend rule **189—14.1(533)**, definition of “Division officer,” as follows:  
“*Division officer*” means the superintendent, deputy superintendent or any division employee authorized by the superintendent under Iowa Code Supplement section 533.59 533.505 to subpoena witnesses, to compel their attendance, to administer oaths, to examine any person under oath and to require the production of books and records.

ITEM 20. Amend subrule 15.6(1) as follows:  
**15.6(1)** Each credit union operating a branch office in this state pursuant to these rules and Iowa Code Supplement section 533.39 533.115 shall pay an annual fee of \$250 to the superintendent on or before February 1 of each year.

ITEM 21. Amend **189—Chapter 15**, implementation sentence, as follows:  
These rules are intended to implement Iowa Code Supplement section 533.39 533.115.

ITEM 22. Amend **189—Chapter 16**, implementation sentence, as follows:  
These rules are intended to implement Iowa Code Supplement section 533.1 533.204.

ITEM 23. Amend subrule 17.1(1) as follows:  
**17.1(1)** These rules implement the authority of credit unions organized in accordance with Iowa Code Supplement chapter 533 to engage in investment and deposit activities which would be permitted if the credit union were federally chartered in accordance with Iowa Code Supplement sections 533.4(5)(i) and 533.4(25) 533.301(5) “j” and 533.301(25), and are promulgated under the authority of Iowa Code Supplement section 533.1 533.104.

ITEM 24. Amend subrule 17.1(3) as follows:  
**17.1(3)** Exceptions. These rules do not apply to:  
*a.* Investment in loans to members and other activities pursuant to Iowa Code Supplement sections 533.4(2) 533.301(2), 533.4(3) 533.301(3), 533.4(15) 533.301(15) and 533.4(16) 533.301(16);  
*b.* Investment in real estate-secured loans to members pursuant to Iowa Code Supplement section 533.16(4) 533.315(4);  
*c.* Investment in credit union service organizations pursuant to Iowa Code Supplement section 533.4(5)(f) 533.301(5) “f”;  
*d.* Investment in fixed assets pursuant to Iowa Code Supplement section 533.4(10) 533.301(10).

ITEM 25. Amend rule **189—17.2(533)**, definition of “Investment portfolio,” as follows:  
“*Investment portfolio*” means the amount invested by a credit union pursuant to Iowa Code Supplement sections 533.4(5) 533.301(5), 533.4(25) 533.301(25), 533.47 533.304 and 533.48 533.305, excluding any investment in nonearning assets such as real estate, premises and equipment, the capitalization deposit in the National Credit Union Share Insurance Fund (NCUSIF), and any other investment which does not generate a regular dividend or interest or receive or accrue added value.

ITEM 26. Amend subrule 17.4(2) as follows:  
**17.4(2)** A credit union must maintain documentation for each investment transaction for as long as it holds the investment and until the documentation has been audited in accordance with Iowa Code Supplement section 533.11 533.208 or NCUA rules and regulations, 12 CFR Part 701.12, or both, and examined by the superintendent or the NCUA, or both. The documentation should include, where applicable, bids and prices at purchase and sale and for periodic updates, relevant disclosure documents or a description of the security from an industry-recognized information provider, financial data, and tests and reports required by the credit union’s investment policy and these rules.

ITEM 27. Amend subrule 17.4(3) as follows:  
**17.4(3)** A credit union must maintain documentation that its board of directors used to approve a broker-dealer or a safekeeper for as long as the broker-dealer or safekeeper is approved and until the documentation has been audited in accordance with Iowa Code Supplement section 533.11 533.208 or

NCUA rules and regulations, 12 CFR Part 701.12, or both, and examined by the superintendent or the NCUA, or both.

ITEM 28. Amend paragraph **17.13(4)“b”** as follows:

b. Any cash the credit union receives, when aggregated with all other credit union borrowings, is subject to the borrowing limit in accordance with Iowa Code Supplement section ~~533.15~~ 533.306 or to any lesser amount specified by policy of the board of directors, and any investments the credit union purchases with that cash are permissible for federal credit unions; and

ITEM 29. Amend paragraph **17.13(5)“c”** as follows:

c. Any cash the credit union receives, when aggregated with all other credit union borrowings, is subject to the borrowing limit in accordance with Iowa Code Supplement section ~~533.15~~ 533.306 or to any lesser amount specified by policy of the board of directors, and any investments the credit union purchases with that cash are permissible for federal credit unions and mature no later than the maturity of the transaction; and

ITEM 30. Amend subrule 17.14(8), introductory paragraph, as follows:

**17.14(8) *Debt obligations of U.S.-chartered corporations.*** An Iowa state-chartered credit union may invest in unsecured notes and acceptances, commonly referred to as “commercial paper” and “corporate bonds,” of U.S.-chartered corporations pursuant to Iowa Code Supplement section ~~533.4(5)(h) and (i)~~ 533.301(5)“h” and “i” and this rule, only if:

ITEM 31. Amend subrule 17.20(3) as follows:

**17.20(3)** Although automatic authority is granted to Iowa credit unions by Iowa Code Supplement sections ~~533.4(5)(j)~~ 533.301(5)“j” and ~~533.4(25)~~ 533.301(25) and these rules, such authority may be withheld or withdrawn by the superintendent for safety and soundness concerns or for blatant disregard for these rules, in whole or in part, by a credit union.

ITEM 32. Amend **189—Chapter 17**, implementation sentence, as follows:

These rules are intended to implement Iowa Code Supplement section ~~533.4(5)~~ 533.301(5).

ITEM 33. Amend **189—Chapter 19**, implementation sentence, as follows:

These rules are intended to implement Iowa Code Supplement section ~~533.7~~ 533.203(3).

ITEM 34. Amend subrule **23.1(1)**, definition of “Board,” as follows:

“Board” means the credit union review board created by Iowa Code Supplement section ~~533.53~~ 533.107.

ITEM 35. Amend subrule 23.2(2) as follows:

**23.2(2) *Special waiver or variance rules not precluded.*** These uniform waiver and variance rules shall not preclude the superintendent from granting waivers or variances in other contexts including, without limitation, those described in Iowa Code Supplement sections ~~533.17~~ 533.303 and ~~533.30~~ 533.401 or on the basis of other standards if a statute or other rule authorizes the superintendent to do so and the superintendent deems it appropriate to do so.

ITEM 36. Amend paragraph **25.13(2)“f”** as follows:

f. All papers, documents, reports, reports of examinations and other writings relating specifically to the supervision and regulation of any state credit union or other person by the superintendent of credit unions pursuant to the laws of this state. (Iowa Code Supplement section ~~533.60~~ 533.108)

ITEM 37. Amend paragraph **25.13(2)“g”** as follows:

g. Reports of examinations conducted by the superintendent of credit unions and reports of examinations received by or furnished to the superintendent of credit unions pursuant to Iowa Code Supplement section ~~533.6(2)~~ 533.113.

ITEM 38. Amend paragraph **25.13(2)“i”** as follows:

i. All information obtained by examiners and described in Iowa Code Supplement section ~~533.60~~ 533.108.

ITEM 39. Amend paragraph **25.13(2)“j”** as follows:

*j.* All applications, reports, materials, documents, information and other writings obtained from the National Credit Union Administration or authorized account insurer (Iowa Code Supplement section ~~533.64~~ 533.307), Federal Reserve Bank, Comptroller of the Currency or any agency of the United States government which would cause the denial of services or information to the agency. (Iowa Code section 22.9; the Privacy Act of 1974, (U.S.C. 522a), and Part 790 of the National Credit Union Administration Rules and Regulations, 12 CFR 790, August 1987)

ITEM 40. Amend rule 189—25.14(17A,22) as follows:

**189—25.14(17A,22) Personally identifiable information.** This rule describes the nature and extent of personally identifiable information that is collected, maintained, and retrieved by the agency by personal identifier in record systems as defined in rule 189—25.1(17A,22). The credit union division does not currently have a data processing system which matches, collates, or permits the comparison of personally identifiable information in another record system. The record systems maintained by the agency which may contain personally identifiable information are the files of current and former agency employees. This information is collected pursuant to Iowa Code Supplement section ~~533.55~~ 533.106 and is subject to the provisions of Iowa Code sections 19A.9 and 19A.15.

ITEM 41. Amend subrule 25.15(7) as follows:

**25.15(7) Reports to superintendent.** Reports obtained by the superintendent of credit unions pursuant to the provisions of Iowa Code Supplement section ~~533.6(4)~~ 533.330. These reports are considered open reports.

ITEM 42. Amend subrule 25.15(8) as follows:

**25.15(8) Officers, directors and shareholders.** Lists filed with the superintendent of credit unions pursuant to the provisions of Iowa Code Supplement section ~~533.8~~ 533.204. These reports are considered open records.